

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "A" BENCH: HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.Nos.511, 512 & 513/Hyd./2025
Assessment Years 2013-2014, 2015-2016 & 2017-2018

The DCIT, Circle-1(1), Hyderabad PIN – 500 004.	vs.	M/s. BTT Industries Private Limited, Hyderabad. PIN – 500 004. PAN AABC6846R
(Appellant)		(Respondent)

For Revenue :	MS U Mini Chandran, CIT-DR
For Assessee :	CA Ch. Satya Dinakar

Date of Hearing :	22.09.2025
Date of Pronouncement :	24.09.2025

ORDER

PER BENCH :

The above three appeals are been filed by the Revenue against the Order dated 31.01.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, relating to the assessment years 2013-2014, 2015-2016 & 2017-2018. Since common issues are involved in all these three appeals, these appeals were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity.

2. First, we take-up ITA.No.511/Hyd./2025 of the Revenue for the assessment year 2013-2014, in which, the Revenue has raised the following grounds :

1. *“The Ld.CIT(A) erred in deleting the addition of Rs.8,26,64,923/- made by the Assessing Officer, considering the assessee's claim that allowability of expenditure was not an item mentioned in the reasons recorded for re-opening the assessment. The Ld. CIT(A) failed to appreciate that the Assessing Officer is empowered to examine any issue related to income that comes to his notice during the course of reassessment proceedings.*
2. *The Ld.CIT(A) erred in allowing the claim of the assessee by relying on the decisions of Hon'ble Bombay High Court in the case of Jet Airways (1) Ltd. and other judicial precedents including Ranbaxy Laboratories Ltd. us. CIT & AST Infrastructure Ltd. us. ACIT, This was done while disregarding the decision of the Hon'ble Karnataka High Court's decision in the case of N. Govindaraju vs. I TO, which is in favour of revenue and provides clear guidance on the issue.*
3. *The Ld.CIT(A) erred in deleting the addition, without considering the clarificatory amendment to Section 147, particularly the Explanation 3 to Section 147. This amendment clearly states that the Assessing Officer may examine, assessee or reassess any issue relevant to income which comes to his notice during the course of proceedings under this section, even if the reason for such issue has not been included in the reasons recorded under sub-section (2) of Section 148. The Ld.CIT(A) should have considered this amendment before arriving at the conclusion.*

4. *The Ld. CIT(A) erred in allowing the assessee's claim of different head of expenses and Provisions for Deferred Tax and deferred liabilities amounting to Rs.8,26,64,923/-even in the absence of any submission or details of such expenditure, either before the Assessing Officer or before the Ld. CIT(A). The Ld. CIT(A) relied solely on the assessee's submission without verifying the authenticity or basis of the claim, thereby failing to correctly assess the claim.*
 5. *The Ld. CIT(A) erred in relying upon the decision of Hon'ble Delhi High Court and deleting the addition, without considering the Division Bench decision of the Hon'ble Delhi High Court in the case of in the case of M/s Jhakotia Plastics Pvt. Ltd., wherein, it was held that the Hon'ble Karnataka High Court's view in the case of N. Govindaraju is a more accurate interpretation of the law on the issue of reopening and reassessment.*
 6. *The Ld. CIT(A) erred in relying only on the decision of Hon'ble Delhi High Court, while ignoring the ambiguity between various judicial authorities interpreting the amended provisions of Section 147 of the Income Tax Act, 1961, particularly in light of the change in law w.e.f. 1989. The ambiguity regarding interpretation of the law on reassessment proceedings should have been addressed before passing the order.*
 7. *Any other ground that may be urged during the course of hearing with permission of the Chair.”*
3. Brief facts of the case are that, the assessee-company filed its return of income for the assessment year

2013-2014 on 29.09.2013 declaring loss of Rs.(-) 8,34,35,800/-. The case was selected for scrutiny under CASS and assessment was completed u/sec.143(3) of the Income Tax Act, 1961 [in short "the Act"] on 28.12.2015 by making disallowance of Rs.7,70,877/- u/sec.14A of the Act, which has been confirmed by the learned CIT(A) vide Order dated 31.07.2017. The case has been subsequently reopened u/sec.147 of the Act, for the reasons recorded, as per which, income chargeable to tax of more than one lakh has escaped assessment and accordingly, notice u/sec.148 of the Act dated 31.03.2021 was issued and served upon the assessee. The assessee did not file its return of income in response to notice u/sec.148 of the Act. Thereafter, notice u/sec.142(1) of the Act was issued on various dates and the assessee was asked to furnish relevant details. In response, the Resolution Professional on behalf of the Assessee had filed reply dated 08.02.2022 and 10.02.2022 and submitted that, the Company was under Corporate Insolvency Resolution Process [in short "CIRP"] and the National Company Law Board [in short "NCLT"], Hyderabad, has

passed Order on 15.10.2019 and admitted the application for adjudication and, therefore, he submitted that, any proceedings during moratorium period, cannot be continued. The Assessing Officer after considering the relevant submissions of the assessee and also taking note of various facts including relevant expenditure debited in the books of accounts including consumption expenses, other expenses, interest expenses, depreciation expenses and provisions for deferred tax and deferred liability observed that, the books of accounts maintained by the assessee are not verifiable in view of non-availability of relevant evidences and thus, rejected the books of accounts u/sec.145(3) of the Income Tax Act, 1961 and determined the assessment at it's best Judgment and made additions towards disallowances of loss of (-)Rs.8,34,35,800/- and assed the total income at Rs.NIL.

4. Aggrieved by the assessment order, the assessee preferred appeal before the learned CIT(A). Before the learned CIT(A), the assessee challenged the validity of additions made by the Assessing Officer towards

disallowance of loss in light of certain judicial precedents including decision of Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., [2011] 331 ITR 236 (Bom.) and argued that, addition made on an issue other than the one on which reopening was done would be invalid when no addition is made on the issues mentioned in the reasons recorded. The learned CIT(A) after considering the relevant submissions of the assessee and also the decision of Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., (supra) held that, the addition made by the Assessing Officer towards disallowance of loss without there-being any additions, on which, reasons of reopening of the assessment was recorded as invalid and cannot be sustained and thus, directed the Assessing Officer to delete the additions made towards disallowance of loss.

5. Aggrieved by the Order of the learned CIT(A), the Revenue is now in appeal before the Tribunal.

6. MS U. Mini Chandran, learned CIT-DR for the Revenue, submitted that, the assessment has been

reopened in the present case on the basis of reasons recorded, as per which, the appellant-company was engaged in providing accommodation entries of bogus share capital and loans to beneficiaries in lieu of commission. Further, during the re-assessment proceedings, the assessee could not furnish relevant evidences in support of its case. Although, the Insolvency Resolution Professional has filed the details about CIRP proceedings, but, no justification has been filed in support of the return of income filed for the relevant assessment year. Therefore, the Assessing Officer rejected the books of accounts and disallowed loss claimed for the year under consideration. The learned CIT(A) by following the decision of Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., (supra), has held that, addition made by the Assessing Officer is invalid, even though, the assessee has not substantiated various expenditure claimed in the books of accounts with relevant evidences. Therefore, she submitted that, the Order of the learned CIT(A) is contrary to law and thus, the Order of the learned CIT(A)

should be reversed and addition made by the Assessing Officer should be upheld.

7. CA, Ch Satya Dinakar, Learned Counsel for the Assessee, on the other hand supporting the Order of the learned CIT(A) submitted that, Company was under Corporate Insolvency Proceedings at the time when the assessment proceedings was reopened and due to this, the Insolvency Professional has submitted relevant details before the Assessing Officer. Further, the Assessing Officer has not made any addition, on which, the assessment has been reopened. However, made other disallowances towards loss claimed by the assessee. The learned CIT(A) after considering the relevant facts and also by following the decision of Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., (supra), has rightly held that, once there is no addition on the issue, for which, the assessment has been reopened, then, any addition made in the re-assessment proceedings is invalid and cannot be sustained. Therefore, he submitted that, the Order of the learned CIT(A) should be upheld.

8. We have heard both the parties, perused the material on record and the orders of the authorities below. There is no dispute with regard to the fact that, the assessment in the present case has been reopened by the Assessing Officer u/sec.147 of the Income Tax Act, 1961 for the reasons recorded, as per which, the assessee was engaged in routing of funds with “Jamakharchi/Shell/Paper Companies which were transactions in the form of investment in shares to raise bogus share capital, unsecured loan etc., for providing entry accommodation to raise bogus share capital to actual beneficiary in lieu of commission. Further, in the re-assessment order passed by the Assessing Officer u/sec.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961, dated 28.03.2022, there is no addition on the issue including the commission income, if any, earned for providing accommodation entries on bogus share capital, unsecured loan etc. Further, the Assessing Officer has made additions towards disallowance of loss on the ground that the loss incurred by the assessee for the year under consideration is owing to consumption expenses,

other expenses, interest expenses, depreciation expenses and provisions for deferred tax and deferred liability claimed for the year under consideration and also debited in the profit and loss account on the ground that, the assessee failed to furnish relevant evidences. In our considered view, it is well settled principle of law by the decision Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., (supra), where the Hon'ble High Court has very clearly held that, where the Assessing Officer after issuing a notice u/sec.148, he accepted the contention of the assessee and holds that, the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income. If he intends to do so, a fresh notice u/sec.148 would be necessary, the legality of which would be tested in the event of challenge by the assessee. In the present case, the learned CIT(A) had recorded categorical finding that, the addition made by the Assessing Officer are different from the issues, for which, the assessment has been reopened and thus, the addition

made by the Assessing Officer towards disallowance of loss cannot be sustained. The Revenue, although, challenged the order of the learned CIT(A), but, failed to bring on record any evidence to countenance the finding of facts recorded by the learned CIT(A) in light of decision Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd., (supra). Therefore, we are of the considered view that, there is no error in the reasons given by the learned CIT(A) in deleting the addition made towards disallowance of loss and thus, we are inclined to uphold the Order of the learned CIT(A) and dismiss the appeal filed by the Revenue.

9. In the result, appeal ITA.No.511/Hyd./2025 of the Revenue is dismissed.

ITA.Nos.512 & 513/Hyd./2025 – A.Ys. 2015-2016 & 2017-2018

10. The facts and issues involved in the following appeals i.e., ITA.Nos.512 & 513/Hyd./2025 filed by the Revenue, are that, the assessee has filed return of income on 22.09.2015 declaring loss of Rs.(-) 2,33,63,032/- and declaring loss of Rs.(-)4,85,96,163/-

in the return of income filed on 29.10.2017 for the assessment years 2015-2016 and 2017-2018, respectively. Since, the issues are identical to the facts and issues which we have considered in Revenue's appeal in ITA.No.511/Hyd./ 2025 for the assessment year 2013-2014, the reasons given by us in the preceding paragraph no.8 shall apply *mutatis mutandis* in these remaining two Revenue's appeals as well. Therefore, for similar reasons, we uphold the Order of the learned CIT(A) on this issue for both the assessment years i.e., 2015-2016 and 2017-2018 as well and dismiss the appeals filed by the Revenue.

11. In the result, appeals ITA.Nos.512 & 513/Hyd./ 2025 of the Revenue for the assessment years 2015-2016 and 2017-2018 are dismissed.

12. To sum-up, ITA.Nos.511, 512 & 513/Hyd./2025 of the Revenue for the assessment years 2013-2014, 2015-2016 and 2017-2018 are dismissed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 24.09.2025.

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 24th September, 2025

VBP

Copy to

1.	The DCIT, Circle-1(1), Room No.724, B-Block, 7 th Floor, I.T. Towers, Masab Tank, AC Guards, Hyderabad PIN – 500 004. Telangana.
2.	M/s. BTT Industries Private Limited, 5-9-13, Room No.10, Taramandal Complex, Saifabad, Hyderabad. PIN – 500 004.
3.	The Pr. CIT, Hyderabad. Telangana.
4.	The DR ITAT “A” Bench, Hyderabad.
5.	Guard File.

//By Order//

//True Copy//